SUPREME COURT OF THE UNITED STATES.

October Term, 1959.

No. 461.

JOHN F. ISELIN and JOAN B. ISELIN,
Petitioners,

versus

LESTER J. MENG, LESTER J. MENG, JR., JAMES C. MENG, THE GENERAL BOX COMPANY, INC., and C. W. HUNTER COMPANY, INC.,
Respondents.

PETITION FOR RE-HEARING.

To the Honorable Earl Warren, Chief Justice of the Supreme Court of the United States of America, and Associate Justices:

The Petition for Re-hearing filed herein by John F. Iselin and Joan B. Iselin, residents and citizens of the State of Indiana, and the original Petitioners for a Writ of Certiorari in this Court, would respectfully show to this Court, as follows:

Petitioners show that on the 7th day of December, 1959, this Court entered an order denying Petitioners' Petition

for a Writ of Certiorari directed to the United States Court of Appeals for the Fifth Circuit in that certain cause entitled *"John F. Iselin, et al. vs. Lester J. Meng, et al.,"* and being numbered 17,688 on the docket of the United States Court of Appeals for the Fifth Circuit; and now with great deference desire to show and point out to this Court that said Order denying the issuance of a writ of certiorari should not have been entered in said cause; and that they are entitled to a re-hearing herein for the following reasons:

These Petitioners show that there are issues involved which should appeal particularly to the discretionary powers of this Court. Here we have a land title controversy that originated in the spring of 1942, and has been "see-sawing" through state and federal courts for nearly eighteen years; and that these Petitioners and their predecessors in title hold not only the legal, but also the equitable title to all of the lands in question, and have been unwilling to stand idly by without a vehement protest at the continuing attempt of various adverse interests, through stretched legalisms, to deprive Petitioners of their lands.

The spirit as well as the letter of the law, should protect the lawful owners in the enjoyment of their lands—not deprive them of it; and the protecting aegis of the federal constitution should not permit it to be taken away by strained legal formalism.

We re-iterate here, and make specific reference to the eleven grounds set forth in the Petition for Re-hearing

in the United States Court of Appeals, Fifth Circuit, and which are set forth *in extenso* in the record accompanying the Petition for Writ of Certiorari in this Court, and we invite this Court's careful and detailed attention to same. We contend that on any one of these eleven grounds this Court would be justified in exercising its discretionary powers and bringing this cause up for judicial review.

The instant case finds a worthy parallel in the celebrated *Myra Clark Gaines* batture case which pursued its tortuous course through state and federal courts from 1833 to 1893--a period of sixty years, and finally resulted in a decisive victory for Mrs. Gaines some eight years after her death. It had been before the United States Supreme Court for over sixty years. Thirty of your predecessors had sat on it in one or another of its aspects, not to mention the numerous judges and officers of the state or federal courts before whom it appeared. The last time the record of the case was carried to Washington from New Orleans two trunks were required to contain it, and the United States Supreme Court frankly admitted its inability to read the record as presented.

In conclusion, Petitioners request that this Court reconsider their action in entering the said order denying the issuance of the Writ of Certiorari, re-open the matter, and forthwith issue the Writ of Certiorari as prayed for.

Respectfully submitted,

JOHN F. ISELIN and
JOAN B. ISELIN,
By L. BRYAN DABNEY,
Of the Law Firm of
DABNEY & DABNEY, of
Vicksburg, Mississippi,
Counsel for Petitioners.

CERTIFICATE OF COUNSEL

I hereby certify that in my opinion, as Counsel for Petitioners, the grounds of the foregoing Petition for a Rehearing are well founded; and that it is presented in good faith and not for delay, and that said Petition is restricted to the grounds above specified.

This 21st day of December, 1959.

L. BRYAN DABNEY,

Counsel for Petitioners.